

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE MAY 16, 2007

AMENDED IN SENATE MAY 1, 2007

AMENDED IN SENATE APRIL 18, 2007

## SENATE BILL

**No. 48**

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**Introduced by Senator Perata Alquist**  
**(Coauthors: Senators Alquist and Kuehl Kuehl and Ridley-Thomas)**  
*(Coauthor: Assembly Member Solorio)*

January 3, 2007

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~~An act to add Section 12803.2 to the Government Code, to add Section 1367.08 to, and to add Article 3.11 (commencing with Section 1357.20) and Article 4.1 (commencing with Section 1366.10) to Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 12693.43, 12693.70, 12693.73, and 12693.755 of, to add Section 10127.19 to, to add Article 14.9 (commencing with Section 1069) to Chapter 1 of Part 2 of Division 1 of, to add Chapter 1.6 (commencing with Section 10199.10) and Chapter 8.1 (commencing with Section 10760) to Part 2 of Division 2 of, and to add Part 6.45 (commencing with Section 12699.201) to Division 2 of, the Insurance Code, to add Part 8.8 (commencing with Section 2200) to Division 2 of the Labor Code, to amend Section 19552 of, to add Section 17054.2 to, and to add Chapter 11 (commencing with Section 19901) to Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 131 of, and to add Division 1.2 (commencing with Section 4800) to, the Unemployment Insurance Code, and to amend Sections 14005.23, 14005.30, and 14008.85 of, to add Sections 14005.335 and 14005.34 to, and to add Article 7 (commencing with Section 14199.10) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health care coverage, and making an appropriation therefor. *An act*~~

*to add and repeal Chapter 19 (commencing with Section 50899) of Part 2 of Division 31 of the Health and Safety Code, relating to community development.*

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, ~~Perata Alquist. Health care coverage: employers and employees. Community development: healthy food choices.~~

*Existing law charges the Department of Housing and Community Development with the administration of various programs that facilitate community development, including the Community Development Block Grant Program. Existing law also requires the State Department of Public Health to develop a "Healthy Food Purchase" pilot program and to establish and implement a "5 A Day-For Better Health" program to promote consumption of fruit and vegetables.*

*This bill would require the State Department of Public Health, until January 1, 2015, in partnership with other programs and services within the Business, Transportation and Housing Agency, and to the extent funds are appropriated, to establish the "Healthy Food Retail Innovations Fund" to provide residents of underserved communities with retail food markets that would offer high quality fruit, vegetables, and other healthy foods and encourage retail innovation. The bill would also require the department to provide grants and loans on a competitive basis for land acquisition, business plan development, feasibility studies, refrigeration units, outside technical assistance, and other startup costs. It would also require the department to report to the Legislature annually, as specified, on projects funded through this program.*

~~Existing law does not provide a system of health care coverage for all California residents. Existing law does not require employers to provide health care coverage for employees and dependents, other than coverage provided as part of the workers' compensation system for work-related employee injuries, and does not require individuals to maintain health care coverage. Existing law provides for the creation of various programs to provide health care coverage to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program, administered by the State Department of Health Care Services. Existing law provides for the regulation of health care service plans by the~~

~~Department of Managed Health Care and health insurers by the Department of Insurance.~~

~~This bill, on and after January 1, 2011, would require each employer to spend a minimum of 7.5% of the employer's social security wages, adjusted annually by the board, on health care expenditures for its full-time or part-time employees, or both, and their dependents or, alternatively, would allow employers to elect to pay an employer health care fee in an equivalent minimum amount to the Health Care Connector (Connector) created by the bill as a purchasing pool for health care coverage for eligible employees. The Connector would be administered by the Managed Risk Medical Insurance Board. The bill would require employers electing to pay the fee to also collect an employee health care contribution, as determined by the board, from each employee. Revenues from the employer health care fees and employee health care contributions would be collected by the Employment Development Department for deposit in the Health Insurance Trust Fund created by the bill, and moneys in the fund would be continuously appropriated to the board for the purposes of the bill. The bill would require the board to offer eligible employees a choice of various health plans through the Connector, and would require the board to establish standards to cap administrative costs and profits of participating health plans and determine standards for plans to control growing health care costs. The bill would provide for health care subsidies under the Connector to eligible employees who are also eligible for the Healthy Families Program or the Medi-Cal program. The bill, on and after January 1, 2011, would generally require individuals who are employed to maintain a minimum policy of health care coverage for themselves and their dependents, as determined by the board, but would exempt individuals whose family income is less than 400% of the federal poverty level, individuals whose only source of income is from qualified retirement income, and individuals for whom the minimum policy cost would exceed 5% of the individual's family income.~~

~~The bill, subject to future appropriation of funds, would expand the number of children eligible for coverage under the Healthy Families Program. The bill would also expand the number of persons eligible for the Medi-Cal program. The bill would delete as an eligibility requirement for a child under the Healthy Families Program and the Medi-Cal program that the child must meet citizen and immigration status requirements applicable to the programs under federal law, thereby creating a state-only element of the program. The bill would require~~

~~the State Department of Health Care Services to seek any necessary federal waiver to enable the state to receive federal Medicaid funds for specified persons who could otherwise be made eligible for Medi-Cal benefits, with the state share of funds to be provided from the Health Insurance Trust Fund. The bill would enact other related provisions. Because each county would be required to determine eligibility for the Medi-Cal program, expansion of program eligibility would impose a state-mandated local program.~~

~~The bill would enact various health insurance market reforms relative to small employers. The bill would prohibit health care service plans and health insurers from spending less than 85% of premiums or fees from enrollees or insureds on health care services. The bill would require health care service plans and health insurers to offer individual health benefit plans on a guaranteed issue basis beginning January 1, 2011, as specified, and would create a reinsurance mechanism in that regard. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.~~

~~Existing law creates the California Health and Human Services Agency.~~

~~This bill would require the secretary of the agency to seek partnership and contract with independent, nonprofit groups or foundations, and other organizations to track and assess the effectiveness of health care reforms in this act.~~

~~Existing law authorizes a taxpayer under the Personal Income Tax Law to claim personal exemption credits against income taxes due for the taxpayer and dependents of the taxpayer.~~

~~This bill would provide that a taxpayer under that law may not claim these exemption credits if the taxpayer fails to comply in a tax year with the requirement for employed individuals to maintain a policy of health care coverage, unless exempt from the requirement. The bill would require the Franchise Tax Board, based on estimates, to correspondingly increase the exemption credits for the remaining taxpayers in a manner that the estimated revenue gain in a tax year from denying the exemption credits under the bill is equal to the estimated revenue loss in that tax year from increasing the exemption credits under the bill.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: ~~yes-no~~.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 19 (commencing with Section 50899) is  
2     added to Part 2 of Division 31 of the Health and Safety Code, to  
3     read:

4  
5             CHAPTER 19. ACCESS TO HEALTHY FOOD ACT

6  
7     50899. This chapter shall be known and may be cited as the  
8     Access to Healthy Food Act.

9     50899.1. The Legislature hereby finds and declares all of the  
10    following:

11    (a) Increasing access to retail food markets is an important  
12    strategy for improving the nutritional health and economic vitality  
13    of low-income communities by ensuring an accessible supply of  
14    healthy food.

15    (b) Community food assessments conducted in California have  
16    demonstrated that residents of low-income communities often have  
17    inadequate access to high quality fruits, vegetables, and other  
18    healthy food.

19    (c) California has the second highest rate of overweight and  
20    low-income children in the nation.

21    (d) According to the Centers for Disease Control and  
22    Prevention, over 20 percent of California adults are overweight  
23    compared to 1991 when less than 10 percent of California adults  
24    were overweight.

25    (e) The growing epidemic of overweight individuals is due to  
26    poor diet and physical inactivity, putting growing numbers of  
27    Californians at risk for type 2 diabetes, hypertension, heart disease,  
28    and cancer.

1     (f) *Diseases related to poor nutrition and physical inactivity*  
2     *are the second leading cause of preventable deaths in the United*  
3     *States. These diseases account for 28 percent of preventable deaths*  
4     *each year, which is more than AIDS, violence, car crashes, alcohol,*  
5     *and drugs combined.*

6     (g) *Obesity costs California an estimated twenty-eight billion*  
7     *(\$28,000,000,000) a year in medical costs and lost productivity.*

8     (h) *While individuals make choices about what they eat, these*  
9     *choices are affected by the availability of food in their community.*  
10    *Sales of fruit and vegetables can be increased by improving*  
11    *community access to retail grocery stores, helping corner stores*  
12    *and other small stores sell fruit and vegetables, starting and*  
13    *sustaining farmers' markets, and other innovative means to*  
14    *improve community access to places for purchasing fruit,*  
15    *vegetables, and other healthy foods. Studies have shown that access*  
16    *to healthy food increases fruit and vegetable consumption.*

17    (i) *Retail grocery stores are important economic anchors in*  
18    *communities, generating jobs, recycling money back into the local*  
19    *economy, and creating opportunities for other small and large*  
20    *businesses.*

21    (j) *Improving the availability, quality, and prices of food in*  
22    *existing small stores can improve local economic development by*  
23    *building upon existing community resources, and strengthening*  
24    *relationships between local merchants and residents.*

25    (k) *Farmers' markets can help support farmers and serve as*  
26    *small business incubators where local residents can sell products*  
27    *such as baked goods or nonfood items.*

28    50899.2. *For purposes of this chapter, the following definitions*  
29    *apply:*

30    (a) *"Department" means the State Department of Public Health.*

31    (b) *"Retail food market" means a for-profit or not-for-profit*  
32    *retailer that will increase access to high quality fruit, vegetables,*  
33    *and other healthy food.*

34    (c) *"Underserved community" means a community in which*  
35    *existing retail food markets are inadequate to serve the healthy*  
36    *food needs of residents and that meets one of the following criteria:*

37    (1) *In metropolitan statistical areas, the median family income*  
38    *is less than 80 percent of the area median family income.*

1     (2) *In nonmetropolitan statistical areas, the median family*  
2 *income is less than 80 percent of the statewide median family*  
3 *income.*

4     (3) *Is adjacent to a census tract that meets the income criteria*  
5 *described in paragraph (1) or (2).*

6     50899.3. (a) *To the extent funds are available, the department*  
7 *shall establish, in partnership with other related programs and*  
8 *services within the Business, Transportation and Housing Agency,*  
9 *a grant and loan program for the purpose of providing residents*  
10 *of underserved communities with retail food markets that will offer*  
11 *high quality fruit and vegetables. Eligible projects include, but*  
12 *are not limited to, projects to encourage development or*  
13 *revitalization of retail grocery stores or farmers' markets, improve*  
14 *or increase healthy food options available at existing small*  
15 *markets, or create or support retail market or fruit and vegetable*  
16 *distribution innovations that meet the intent of this section. A*  
17 *restaurant is not an eligible project for purposes of this section.*  
18 *The department shall provide grants and loans on a competitive,*  
19 *one-time basis, for acquisition of land, refrigeration units, and*  
20 *other equipment, construction, workforce development and training*  
21 *expenses, outside technical assistance, feasibility studies, business*  
22 *plan costs, and the rehabilitation of land improvements. Grants*  
23 *and loans shall not be used to pay operating costs. Feasibility*  
24 *studies shall be eligible for funding only if there is evidence that*  
25 *the study will gather important new information and is likely to*  
26 *result in a retail food market or fruit and vegetable innovation*  
27 *project. To the extent possible, the department, in partnership with*  
28 *other related programs and services within the Business,*  
29 *Transportation and Housing Agency, and the California*  
30 *Supplemental Food Program for Women, Infants, and Children*  
31 *(WIC program) shall provide technical assistance to grant and*  
32 *loan recipients.*

33     (b) *An applicant for the grants and loans under this chapter*  
34 *may be a for-profit business enterprise, including, but not limited*  
35 *to, a corporation, limited liability company, sole proprietor,*  
36 *cooperative, or partnership; a nonprofit organization; or*  
37 *governmental entity.*

38     (c) *To be eligible for a grant or loan under this chapter, an*  
39 *applicant shall serve an underserved community in which the*  
40 *proposed retail food or fruit and vegetable innovation market*

1 *project will improve, increase, or preserve retail access to high*  
2 *quality fruit, vegetables, and other healthy food for low-income*  
3 *residents of the community, and shall meet all of the criteria listed*  
4 *in subdivision (d).*

5 *(d) The department, in partnership with other related programs*  
6 *and services within the Business, Transportation and Housing*  
7 *Agency, shall rate and rank applicants by the following*  
8 *priority-ordered criteria:*

9 *(1) The income level of the community and the degree to which*  
10 *the community is underserved by retail food markets.*

11 *(2) The degree to which the project will improve, increase, or*  
12 *preserve retail access to high quality, culturally appropriate, fruit,*  
13 *vegetables, and other healthy food for the low-income residents*  
14 *of the underserved community.*

15 *(3) The capacity of the applicant to successfully complete the*  
16 *project and the likelihood that the project will be economically*  
17 *self-sustaining.*

18 *(4) The degree to which the underserved community supports*  
19 *the project. This may be demonstrated through letters of support*  
20 *from local community-based organizations, faith-based*  
21 *organizations, civic organizations, or local community members.*

22 *(5) The degree to which the project will have a positive*  
23 *economic impact on the underserved community. Applicants who*  
24 *demonstrate a commitment to strong local hiring practices shall*  
25 *receive additional consideration.*

26 *(6) Other criteria the department may determine and that are*  
27 *consistent with the purposes of this chapter.*

28 *(e) The funded retail food market should primarily sell groceries,*  
29 *produce, meat, baked goods, and dairy products to the general*  
30 *public. The department shall establish alternate requirements*  
31 *applicable to farmers' markets and to other grant or loan recipients*  
32 *that primarily sell produce.*

33 *(f) It is the Legislature's intent that funds described in this*  
34 *section be used to leverage other funding including, but not limited*  
35 *to, workforce development funds, New Markets Tax Credits,*  
36 *incentives available to enterprise zones, and funding from financial*  
37 *institutions under the federal Community Reinvestment Act (12*  
38 *U.S.C. Sec. 2901).*

39 *(g) The department shall report to the Legislature annually on*  
40 *any projects funded through this program by describing outcome*



1 *data, including fruit and vegetable sales data, and describing the*  
2 *most promising healthy food retailing innovations. The department*  
3 *may fulfill this requirement by including this information in any*  
4 *other annual report that the department provides to the Legislature.*

5 50899.4. (a) *There is hereby established in the State Treasury*  
6 *the Healthy Food Retail Innovations Fund, into which funds*  
7 *appropriated by the Legislature shall be deposited and made*  
8 *available to the department for the purposes of this chapter.*

9 (b) *The department shall implement this chapter only to the*  
10 *extent that funds are appropriated for that purpose. The department*  
11 *may contract with a qualified third-party, nonprofit organization*  
12 *to fulfill the obligations described in subdivisions (d) to (g),*  
13 *inclusive, of Section 50899.3.*

14 50899.5. *This chapter shall remain in effect only until January*  
15 *1, 2015, and as of that date is repealed, unless a later enacted*  
16 *statute, that is enacted before January 1, 2015, deletes or extends*  
17 *that date.*

18  
19  
20 **All matter omitted in this version of the bill**  
21 **appears in the bill as amended in the**  
22 **Senate, May 16, 2007. (JR11)**  
23